**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Writ Petition (S) No. 4664/2007**

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| **PETITIONER** | | Kailash Dubey, s/o Prithvi Dubey, aged about 54 years, working as School Bus Khalasi, Bishrampur Area, S.E.C.L. Distt. Surguja (C.G.). |
| | | ***Versus*** |
| **RESPONDENTS** | **1.** | S.E.C.L. through its Chairman-cum-Managing Director, Seepat Road, Bilaspur (C.G). |
| | **2.** | Chief General Manager, S.E.C.L., Bishrampur Area, District Surguja (C.G). |

**WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA**

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**Appearance:**

Shri S.N. Prasad, learned counsel for the petitioner.
Shri R. R. Sinha, counsel for the respondents.

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**ORAL ORDER**
**(11.12.2007)**

**SUNIL KUMAR SINHA, J**

Heard finally with the consent of the parties.

The petitioner, who was working on the post of Bus Khalasi in Bishrampur area of S.E.C.L. has filed this writ petition on 30.7.2007 for removing the wrong entry of date of birth recorded in official records as also for referring his case to the age determination committee as per Implementation Instruction No.76 dated 25.4.1988 (hereinafter referred to as I.I. 76).

Learned counsel for the petitioner submits that correct date of birth of the petitioner is 26.11.1952 whereas a wrong entry as 26.11.1947 has been made in the service records of the petitioner. He submits that when the petitioner came to know about all this, he made various representations vide Annexure P-2, P-3, P-4 & P-5. Annexure P-2 was filed on 20.1.1995, Annexure P-3 was filed on 25.1.1996, Annexure P-4 was filed on 30.3.1998 and Annexure P-5 was filed on 18.4.2001, but no action was taken by the employer to make correction in service records of the petitioner

pertaining to his date of birth, therefore, petitioner had to file this writ petition. He submits that during the pendency of this writ petition, treating the date of birth of the petitioner as 26.11.1947, the petitioner has been superannuated on 30th of November, 2007. He prays for referring the case of the petitioner to the age determination committee as per I.I.76.

On the other hand, learned counsel for the respondents argues that the matter for correction of date of birth cannot be agitated at the fag end of service. He also argues that since the petitioner has already retired on 30th of November, 2007, therefore, now the petition has become infructuous and this Court cannot issue any writ or direction in this writ petition.

I have heard leanred counsel for the petitioner at length and have also perused the records of the writ petition.

Annexure P-6 is the document issued by the concerned institution where the petitioner had studied and in this document, the date of birth has been mentioned as 26.11.1952. This document is of the year 1967. Prima facie, on the basis of contents of this document, the date of birth of the petitioner appears to be 26.11.1952 whereas his date of birth has been entered as 26.11.1947 in all his service records and when this fact came to notice of the petitioner, he started agitating the same since the year 1995 by filing representations vide Annexure P-2, P-3, P-4 and P-5. The last representation Annexure P-5 was filed by the petitioner on 18.4.2001. Therefore, the objection raised by learned counsel for the respondent that the petitioner has raised this matter at the fag end of his service career cannot be sustained. In fact the petitioner has raised this matter since the year 1995 as is clear from Annexure P-2 and the authorities of the S.E.C.L., did not respond to the representations and ultimately, his matter was kept in abeyance.

So far as the other argument regarding petition being infructuous is concerned, admittedly, this petition was filed on 30.7.2007 when the petitioner was working on the post of Bus Khalasi and he has been superannuated on 30.11.2007 holding his date of birth as 26.11.1947 during the pendency of this writ

petition. Therefore, the case of the petitioner would be governed by the provisions of I.I.76 which provides for Review/ determination of date of birth in respect of existing employees because the day on which this petition was filed, the petitioner was working. The status of the petitioner was of an existing employee and within the scope of I.I.76, his case can be referred for determination to the suitable Committee as per the aforesaid instructions.

In the result, this petition is allowed. The respondents are directed to refer the case of petitioner to the age determination committee within a period of 3 weeks from the date of filing of certified copy of this order before the concerned respondents. They are further directed to receive the report of age determination committee within a further period of two months from the date of reference made by them.

With the above direction, this petition stands disposed of.

No order as to costs.

**Sd/-**
**Sunil Kumar Sinha**
**Judge**

*/Rao/*